

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 740 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

AGRICULTURE PRODUCE MARKET COMMITTEE

Versus

STATE OF GUJARAT

Appearance:

MR PRADEEP PATEL for Petitioner

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 11/02/2000

ORAL JUDGEMENT

The petitioner seeks a direction for restraining the respondent not to take charge of the petitioner Committee until 31.12.2000 or the division of the petitioner Committee whichever is earlier in view of notification dated 27.1.2000. A direction is also sought on the respondent to complete the process of division of

the market Committee and to issue notification for holding fresh election of the petitioner Committee before the extended term of the committee which expires on 31.12.2000.

According to the petitioner election of the petitioner market Committee was held in the year 1996 and its term expired on 31.1.2000. Notice regarding general election of the Committee was published on 2.11.1999. The election of the petitioner Committee was scheduled to be held on 31.1.2000. However, the State Government postponed the election till 31.12.2000 extending the term of the existing body. The State Government consequently issued public notice in the news paper extending the term upto 31.12.2000 and cancelled the election of the Committee.

It has been contended on behalf of the petitioner that the respondent authorities are likely to appoint an administrator under sub-section (5) of Section 11 of the Gujarat Agricultural Produce Market Act, 1963 and if the administrator is appointed the election will not be held nor the work of division be completed till the atmosphere conducive to the ruling party arises. The petitioner Committee should therefore be allowed to function till 31.12.2000 and in the meantime the election ought to be held.

Under Section 9 the Director is empowered to establish a market Committee for every market area. To have division of a market Committee or not would be a matter to be decided by the concerned authority under the provisions of the said Act. According to the notification dated 22.1.2000 which has been issued under Section 11(4)(aa) reasons have been recorded for extending the term of existing Committee till 31.12.2000. Provisions of Section 11(4)(aa) require reasons to be recorded when extension is given. Such extension cannot be in excess of one year in the aggregate. The reasoning that has been recorded in the said notification is that the procedure dividing the market Committee has been undertaken and the notification declaring intention to divide the market Committee has to be published and objections are invited. Thereafter, a final notification is required to be published. It was therefore thought proper to extend the life of the present Committee. The petitioner on the one hand wants the benefit of the notification extending the life of the Committee and on the other wants an embargo against exercise of powers under sub-section (5) of Section 11. There cannot be any restriction on the exercise of statutory powers.

Moreover, the petition is premature because no orders have been made under Section 11(5) of the Act appointing the administrator. There is, therefore, no substance in this petition and it is rejected.

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